

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1387 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PARIMALBHAI D TRIVEDI

Versus

BAI CHANDANBEN MANSUKHLAL SHAH

Appearance:

MR SS BELSARE for Petitioner

MR DD VYAS, with MR UTPAL M PANCHAL for Respondent No. 1

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 15/01/97

ORAL JUDGEMENT

Rule. Service of Rule waived by Mr.D.D.Vyas,
learned Advocate appearing for the respondents.

2. Heard.

3. The petitioner herein is the tenant - plaintiff
in Regular Civil Suit No.7/94 which was filed for

obtaining permanent injunction restraining the defendants - landlords from making construction/alteration as alleged in the plaint. The respondents herein are the original defendants in the aforesaid Suit and out of the respondents, respondent No.1 happens to be the land lady in respect of the Suit premises. The parties will be hereinafter referred to as the landlady and the tenant in this order.

4. The tenant filed Regular Civil Suit No.7/94 as aforesaid and moved interim injunction application Ex.5 in that Suit. At the initial stage the trial Court granted interim injunction and confirmed the same after hearing both the sides. The landlady carried the matter in Appeal bearing Civil Misc. Appeal No.17 of 1995 and the learned Appellate Judge being the learned Assistant Judge, District Surendranagar, by his impugned Judgment and order dated 13.8.1996 allowed the Appeal and set aside the interim injunction order passed by the trial Court inter alia holding that the opening of the door of the lavatory in the Varanda portion will not cause hardship and/or prejudice to the tenant. Mr.Belsare, learned Advocate for the tenant inter alia submitted that in case the portion of the property occupied by the land lady is let out then there might be prejudice and/or hardship caused to the tenant. Mr.D.D.Vyas, learned Advocate for the land lady has no objection if the appropriate direction is issued to the land lady for not letting out the portion occupied by her till the main Civil Revision Application No. 349 of 1995 pending in this Court is decided.

5. Hence, while dismissing the present revision Application, which is moved against the interim order below Ex.5 passed by the learned Appellate Judge, it is hereby directed that the portion of the property occupied by the landlady shall not be let out without permission of this Court till the Civil Revision Application No. 349 of 1995 is decided. The Suit bearing Regular Civil Suit No.7/94 is pending for evidence and final adjudication before the trial Court and, therefore, it is clarified that this order shall not prejudice the rights and contentions of the parties in that Suit. It is made clear that opening of the door of the lavatory in question in Varanda portion by the landlady will not create any further right in favour of the landlady in so far as the varanda portion is concerned.

6. In view of what is said above, this Civil Revision Application is dismissed with aforesaid direction. Rule is accordingly discharged with no order

as to costs.

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